

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
NE/Corner Belair and Joppa Roads * ZONING COMMISSIONER
(9101 Belair Road)
11th Election District * OF BALTIMORE COUNTY
5th Councilmanic District
Baltimore County Savings * Case No. 89-9-X
and Loan Association -
Petitioner

AMENDED ORDER

WHEREAS, the Petitioner requested a special exception for a service garage at the above-captioned location;

WHEREAS, the relief requested in the special exception was GRANTED by Order dated August 30, 1988;

WHEREAS, said Order contained a factual conclusion in contradiction to the evidence in the record concerning one of the entrances on Joppa Road;

IT IS THEREFORE ORDERED by the Zoning Commissioner for Baltimore County this 30th day of September, 1988, that the Order dated August 30, 1988 be and the same is hereby AMENDED to read as follows:

The Petitioner herein requests a special exception for a service garage on the subject property as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Gary Loraditch, its Secretary-Treasurer, appeared, testified, and was represented by Ronald Decker, Esquire. Frederick Tomarchio and Joseph Tomarchio, Jr., President and Vice President respectively of Mr. Tire, Inc., tenant of the subject property, appeared and testified on behalf of the Petition and were represented by Jeffrey F. Higdon, Esquire. Also appearing on behalf of the Petition was Tom Church,

Registered Engineer with Development Engineering Consultants, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 9101 Belair Road, is zoned B.L. and is located at the northeast corner of Belair Road and Joppa Road. Testimony presented at the hearing indicated that the subject property has been used continuously and without interruption as a tire store by its current tenant, Mr. Tire, Inc., since the execution of a lease agreement between the Petitioner and the tenant on January 27, 1978. Testimony further indicated that prior to the occupation of the subject property by Mr. Tire, Inc., the property was utilized as a tire store and service garage by the preceding tenant from April 1974 through November 1977, and that a CITGO gasoline service station business, which included the sale and installation of tires, operated from the premises during the period 1956 through 1972. The records show that a special exception for a gasoline service station was granted on September 25, 1956 in Case No. 3892-X, which special exception has now expired. Testimony indicated that the current use of the subject property as a tire store/service garage in lieu of a gasoline service station represents a safer use of the property from the point of view of traffic engineering and egress and ingress to the property.

Mr. Church testified that the amended plat, identified herein as Petitioner's Exhibit 1, identifies the uses on the subject property and outlines the proposed fencing to block off one of the entrances onto Belair Road. Mr. Church testified that Petitioner's Exhibit 1 and the proposed construction of the fencing fully comply with the recommendations submitted in the Zoning Plans Advisory Committee comments submitted by the State Highway Administration, the Baltimore County Fire Department, and

-2-

the Bureau of Traffic Engineering. He further testified that the Petitioner will fill the unused fuel tanks located in the ground on the premises with inert material or remove said tanks as required by the Fire Department and related environmental regulations. Mr. Church indicated that the State Highway Administration (SHA) had advised that the entire premises is to be taken by the State of Maryland for the purpose of widening Belair Road, which taking is scheduled to be completed within five years from the date of the hearing. Further testimony indicated that if the special exception were not granted, the tenant would have to abandon its business at this location and considering the proposed taking of the subject property by the State of Maryland for the widening of Belair Road would result in practical difficulty and/or unreasonable hardship upon the Petitioner in an attempt to locate a new tenant on the property for a lease period of less than five years.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Further, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.) and therefore, should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County that the Petition for Special Exception to permit the operation of a service garage on the subject property, in accordance with Petitioner's

-3-

Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner shall submit to the Zoning Commissioner's Office by no later than December 1, 1988, a new site plan which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, their distances from all property lines, and the modifications made thereto as set forth in Petitioner's Exhibit 1, and including all terms and conditions of this Order and any other information as may be required to be a certified site plan.
- 2) The Petitioner shall make repairs and renovations as necessary in connection with unused fuel tanks located underground on the premises, which tanks shall be filled in or removed in accordance with the recommendations of the Baltimore County Fire Department and applicable environmental agencies and regulations.
- 3) The Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee, including but not limited to, the State Highway Administration, as set forth in their comments dated May 5, 1988 and subsequent comments of July 18, 1988, which have been made a part of this file.

JRH:bjs

widening of Belair Road would result in practical difficulty and/or unreasonable hardship upon the Petitioner in an attempt to locate a new tenant on the property for a lease period of less than five years.

It is clear that the B.C.Z.R. permits the use proposed in a B.L. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Further, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.) and therefore, should be granted.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special exception should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30th day of August, 1988 that the Petition for Special Exception to permit the operation of a service garage on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner shall submit to the Zoning Commissioner's Office by no later than December 1, 1988, a new site plan which clearly identifies all buildings, their size and area dimensions, their exact location on the subject property, their distances from all property lines, and the modifications made thereto as set forth in Petitioner's Exhibit 1, and including all terms and conditions of this Order and any other information as may be required to be a certified site plan.
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- 3) The Petitioner shall comply with all requirements of the Zoning Plans Advisory Committee, including but not limited to, the State Highway Administration, as

-3-

set forth in their comments dated May 5, 1988 and subsequent comments of July 18, 1988, which have been made a part of this file.

JRH:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
114 E. Lexington Street
Baltimore, Maryland 21204
48-3533

J. Robert Haines
Zoning Commissioner

September 29, 1988

Jeffrey F. Higdon, Esquire
Serio & Higdon
Suite 501, Provident Financial Center
114 E. Lexington Street
Baltimore, Maryland 21202-1703

RE: PETITION FOR SPECIAL EXCEPTION
NE/Corner Belair and Joppa Roads
(9101 Belair Road)
11th Election District - 5th Councilmanic District
Baltimore County Savings & Loan Association - Petitioner
Case No. 89-9-X

Dear Mr. Higdon:

In response to your letter dated September 28, 1988 on the above-captioned matter and the request for a modification of the decision rendered with regard to the Joppa Road entrance to the subject property, enclosed please find a copy of the Amended Order.

If you have any questions on the subject, please do not hesitate to contact this office.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Ronald A. Decker, Esquire
Moore, Carney, Ryan & Lettansi
4111 E. Joppa Road, Suite 201, Baltimore, Md. 21236

Mr. Tom Church
Development Engineering Consultants, Inc.
6603 York Road, Baltimore, Md. 21212

People's Counsel

File

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
NE/Corner Belair and Joppa Roads * ZONING COMMISSIONER
(9101 Belair Road)
11th Election District * OF BALTIMORE COUNTY
5th Councilmanic District
Baltimore County Savings * Case No. 89-9-X
and Loan Association -
Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception for a service garage on the subject property as more particularly described in Petitioner's Exhibit 1.

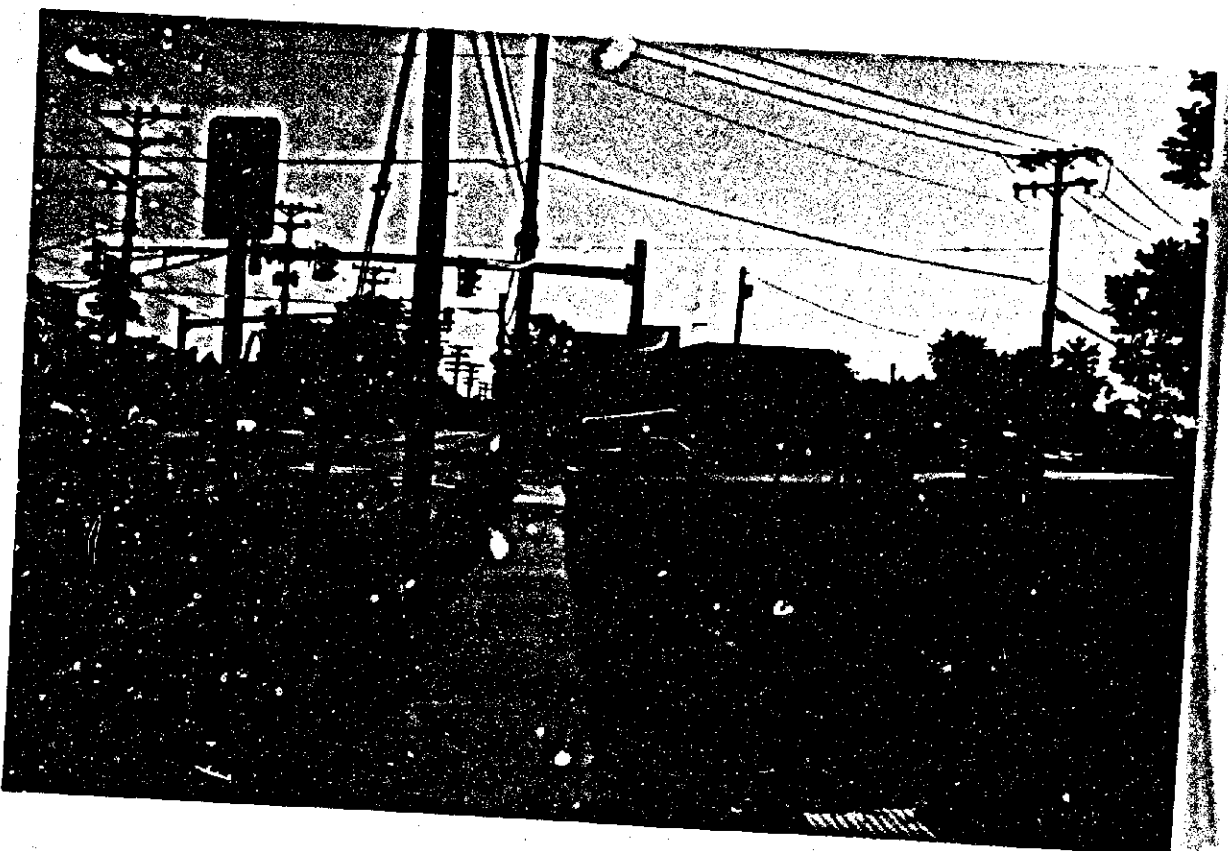
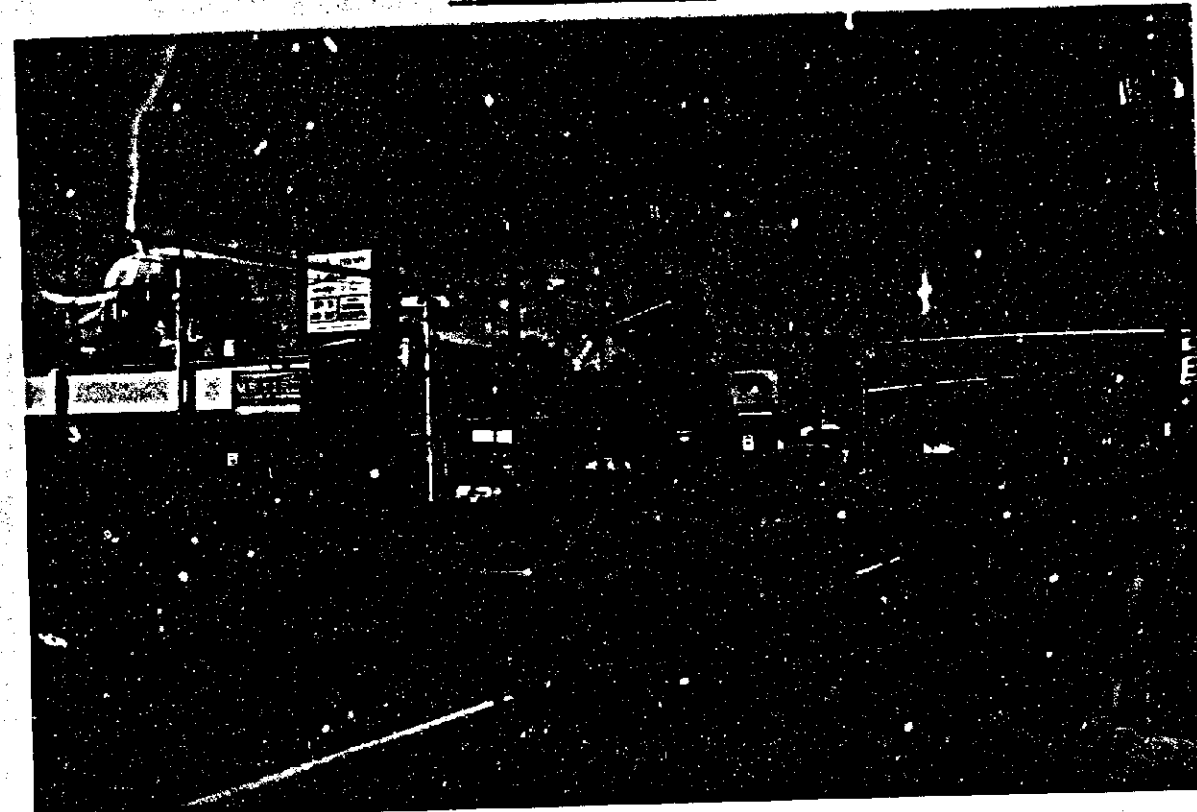
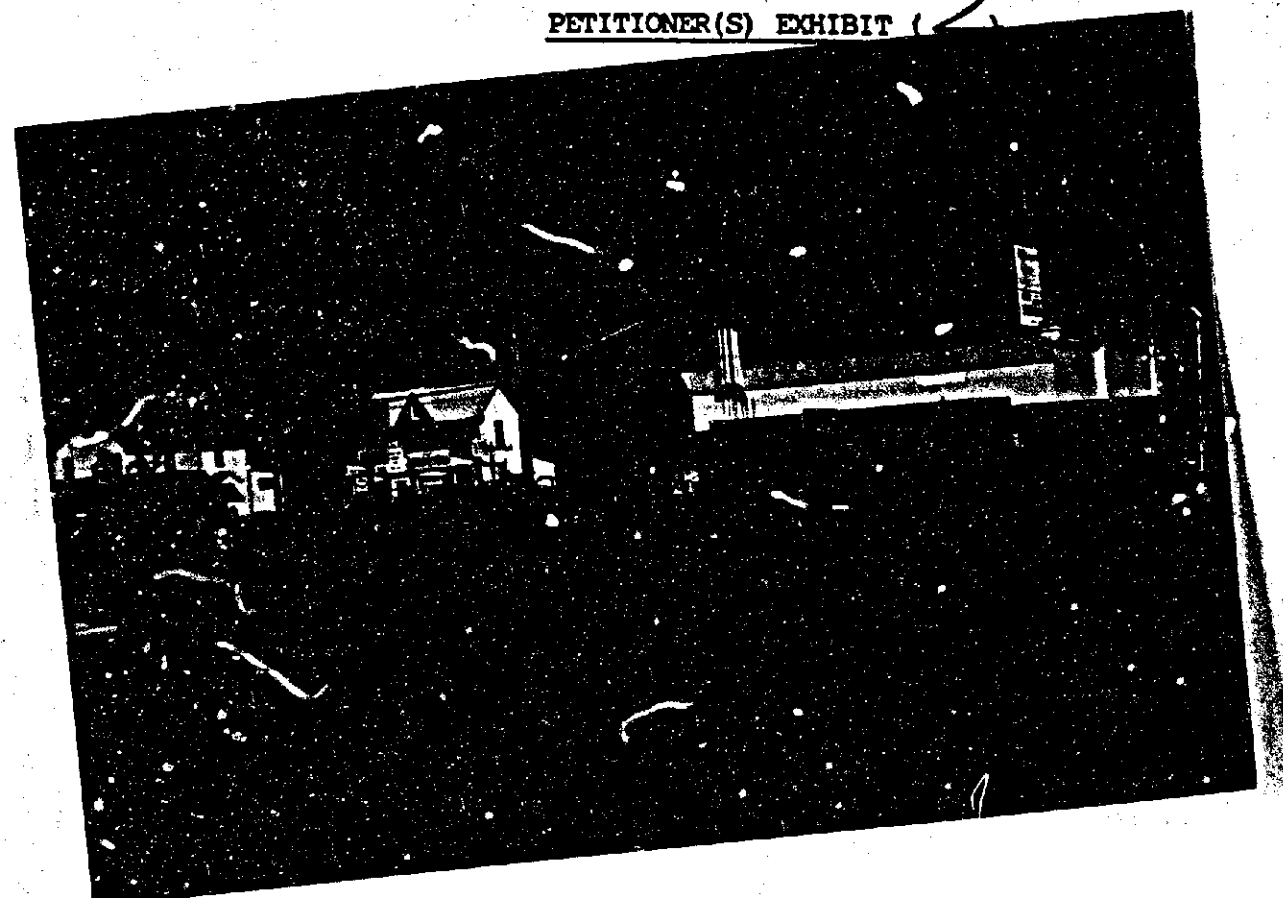
The Petitioner, by Gary Loraditch, its Secretary-Treasurer, appeared, testified, and was represented by Ronald Decker, Esquire. Frederick Tomarchio and Joseph Tomarchio, Jr., President and Vice President respectively of Mr. Tire, Inc., tenant of the subject property, appeared and testified on behalf of the Petition and were represented by Jeffrey F. Higdon, Esquire. Also appearing on behalf of the Petition was Tom Church, Registered Engineer with Development Engineering Consultants, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 9101 Belair Road, is zoned B.L. and is located at the northeast corner of Belair Road and Joppa Road. Testimony presented at the hearing indicated that the subject property has been used continuously and without interruption as a tire store by its current tenant, Mr. Tire, Inc., since the execution of a lease agreement between the Petitioner and the tenant on January 27, 1978. Testimony further indicated that prior to the occupation of the subject property by Mr. Tire, Inc., the property was utilized as a tire store and service garage by the preceding tenant from April 1974

-2-

PETITIONER(S) EXHIBIT (2)

PETITIONER(S) EXHIBIT (2)



89-9-X

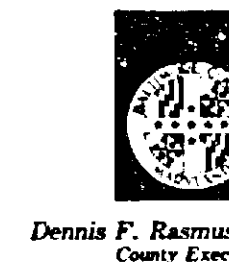
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
4th day of May, 1988

Petitioner Baltimore County Savings & Loan Association
Petitioner's Attorney Ronald A. Decker
Received by: James E. Dyer
Chairman, Zoning Plans Advisory Committee

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building, Suite 405
Towson, Maryland 21204
494-3554

June 10, 1988



Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, MD 21204

Item No. 387 - ZAC - Meeting of May 3, 1988
Property Owner: Baltimore County Savings & Loan Assoc.
Location: NE/C Belair Road & Joppa Road
Existing Zoning: B.L. - C.N.S.

Dear Mr. Haines:

The northernmost entrance on Belair Road should be eliminated.

A single access is adequate on Joppa Road. The westernmost access, therefore, should be closed and the 15 foot island be removed. The easternmost curb should be extended approximately 15 feet to the west to provide for a 35 foot entrance.

Very truly yours,

For Stephen E. Weber, P.E.
Traffic Engineer

SEW/RF/pml-b

RECEIVED
JUN 13 1988
ZONING OFFICE

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Chief H. Reinecke

May 18, 1988

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: Baltimore County Savings & Loan Assoc.

Dennis F. Rasmussen
County Executive

Location: NE/C Belair Rd., & Joppa Road

Item No.: 387 Zoning Agenda: Meeting of 5/3/88

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *John F. O'Neill*
Handling Group
Special Inspection Division

Noted and Approved: *John F. O'Neill*
Fire Prevention Bureau

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

July 11, 1988

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Ronald A. Decker, Esquire
Moore, Carney, Ryan & Lattanzi
4111 East Joppa Road, Suite 201
Baltimore, Maryland 21236

RE: Item No. 387 - Case No. 89-9-X
Petitioner: Baltimore County Savings & Loan Assn
Petition for Special Exception

Dear Mr. Decker:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:dt

Enclosures

cc: Development Engineering Consultants Inc.
6603 York Road
Baltimore, Maryland 21212



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

May 5, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204
Att: James Dyer

Re: Baltimore County
Service Garage
Zoning Meeting 5/3/88
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
Item #387

Dear Mr. Haines:

After reviewing the submittal for a Special Exception for a Service Garage, the State Highway Administration-Bureau of Engineering Access Permits finds the plan must be revised as follows.

1. The northernmost entrance on Belair Road is not necessary for this site, and must be closed with State Highway Administration Type "A" concrete curb and gutter.
2. Existing concrete curb and gutter on Belair Road, must be repaired or replaced as directed by the State Highway Administration Inspector.

It is requested these revisions be made prior to a hearing date being set.

If you have any questions, please call Larry Brocato at this office (333-1350).

Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr.
Chief-Bureau of Engineering
Access Permits

LB/es

cc: Baltimore County Savings and Loan
J. Ogle

RECEIVED
MAY 9 1988
ZONING OFFICE

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
301-7555 Baltimore Metro - 845-0451 D.C. Metro - 1-800-492-5052 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21202-0717



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Mr. Tire Property
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
(Item #387)

Dear Mr. Haines:

This is a follow up to our letter dated 5-5-88 in which we required the entrance onto Belair Road at the northern property line be closed with concrete curb and gutter.

Since our proposed improvements to Belair Road are in the State Highway Administration's five year construction program and this property will be acquired for these improvements, we are agreeable to closing this entrance with a permanent barricade, such as a fence, in lieu of the concrete curb and gutter.

However, if for any reason our Belair Road improvements are deleted from the construction program, we reserve the right to require all improvements, as stated in our letter dated 5-5-88, be accomplished.

If you have any questions, please call Larry Brocato at 333-1350.

Very truly yours,

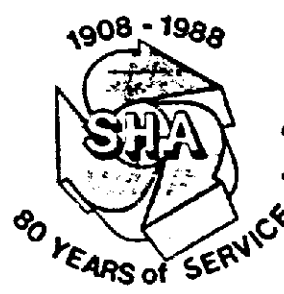
Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Bureau of Engineering
Access Permits

LB:raw

cc: Mr. J. Ogle
Development Engineering Consultants

My telephone number is (301) 333-1350

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301-7555 Baltimore Metro - 845-0451 D.C. Metro - 1-800-492-5052 Statewide Toll Free
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Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Mr. Tire Property
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
(Item #387)

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Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Bureau of Engineering
Access Permits

LB:maw

cc: Mr. J. Ogle
Development Engineering Consultants

My telephone number is (301) 333-1350

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Mr. Tire Property
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
(Item #387)

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Very truly yours,

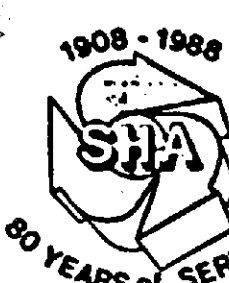
Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Bureau of Engineering
Access Permits

LB:maw

cc: Mr. J. Ogle
Development Engineering Consultants

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Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Mr. Tire Property
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
(Item #387)

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If you have any questions, please call Larry Brocato at 333-1350.

Very truly yours,

Creston J. Mills, Jr.
Creston J. Mills, Jr., Chief
Bureau of Engineering
Access Permits

LB:maw

cc: Mr. J. Ogle
Development Engineering Consultants

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707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner

Date: June 23, 1988

FROM: P. David Fields, Director
Office of Planning and Zoning

SUBJECT: Zoning Petition #89-2-F

In view of the fact that this is a conversion of an existing facility, this office will not oppose the granting of the subject request if there is compliance with the comments of the Bureau of Traffic Engineering.

P. David Fields
P. David Fields, Director
Office of Planning and Zoning

PDF/jat
cc: Shirley Hess, People's Counsel
J. C. Howell
Zoning File

RECEIVED
JUN 24 1988
ZONING OFFICE

cc: Ronald A. Decker, Esquire

CPS-008

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: James Dyer
Zoning Supervisor

Date: April 23, 1988

FROM: James Thompson
Zoning Enforcement Coordinator

Item No.: 387 (if known)
SUBJECT: Petitioner: (if known)

Balto. Co. Savings & Loan Assoc. Inc.

VIOLATION CASE: 36-268-2

LOCATION OF VIOLATION: 9101 Belair Road

DEFENDANT: Balto. Co. Savings & Loan Assoc. Inc.

Jr. Tire, Inc.

Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons:

NAME ADDRESS

After the public hearing is held, please send a copy of the Zoning Commission's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

SERIO & HIGDON

ATTORNEYS AT LAW
SUITE 501 PROVIDENT FINANCIAL CENTER
114 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202-1703

(301) 752-1946

C. JOHN SERIO
JEFFREY F. HIGDON
JAMES B. LARIMORE
BRUCE L. RICHARDSON

August 16, 1988

County Office Building
Zoning Commission Office
111 W. Chesapeake Avenue
Towson, MD 21204

RE: Baltimore County Savings Bank, F.S.B.
9101 Belair Road

Dear Madam:

Per Commissioner Haines' request, I am enclosing proposed Findings of Fact and Conclusions of Law in connection with the above matter.

Very truly yours,

SERIO & HIGDON
BY: *Jeffrey F. Higdon*
Jeffrey F. Higdon

JFH:mmm

Enclosure

cc: Ronald A. Decker, Esq.

SERIO & HIGDON

ATTORNEYS AT LAW
SUITE 501 PROVIDENT FINANCIAL CENTER
114 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21202-1703

(301) 752-1946

September 28, 1988

C. JOHN SERIO
JEFFREY F. HIGDON
JAMES B. LARIMORE
BRUCE L. RICHARDSON

HAND DELIVERED

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Baltimore County
Mr. Tire Property
E/S Belair Road
Maryland Route 1-N
North of Joppa Road
(Item #387)

Dear Commissioner Haines:

Enclosed please find your Findings of Fact and Conclusions of Law dated August 30, 1988. Upon forwarding a copy of your findings to the engineer who testified in this case, namely Tom Church, Mr. Church advises me that the amended plat which he submitted to you at our hearing provided for the closing off of the entrance on Belair Road with a fence and not the closing off of the entrance on Joppa Road.

Mr. Church also advises me that this was the testimony that he proffered at the hearing, and he also advised that this plan was acceptable both to the State of Maryland and to the County. You may recall that a letter was submitted by Mr. Church dated July 18, 1988 from the State of Maryland Department of Transportation signed by Creston J. Mills, Jr., Chief of the Bureau of Engineering in which Mr. Mills agreed to the closing off of the entrance only on Belair Road. Mr. Church further advised me, and apparently further proffered, that this solution was acceptable to Baltimore County and specifically with Greg Jones.

Thus, I would appreciate you accepting this letter as a formal request to amend the reference on page two of your Findings of Fact to reflect the position that the petitioner does not have to block off one of the entrances on Joppa Road. This clause appears at the end of the first sentence

RECEIVED ZONING OFFICE
DATE: *9/28/88*

RECEIVED
AUG 17 1988
ZONING OFFICE

Mr. J. Robert Haines
September 28, 1988
Page 2

of the first full paragraph on page two of the Findings of Fact.

Thank you for your kind attention to this matter.

Very truly yours,

SERIO & HIGDON
BY: *Jeffrey F. Higdon*
Jeffrey F. Higdon

JFH:pam

cc: Mr. Tom Church
People's Counsel
Ronald Decker, Esquire
Mr. Frederic Tomarchio

IN RE: PETITION FOR SPECIAL EXCEPTION * BEFORE THE
9101 Belair Road
Councilmanic District * ZONING COMMISSIONER
Baltimore County Savings * OF BALTIMORE COUNTY
& Loan Association
Petitioner * Case No. 89-9-X
* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special exception to allow the operation of a service garage on the premises known as 9101 Belair Road at the northeast corner of Belair Road and Joppa Road as more particularly described in Petitioner's Exhibit No. 1, namely "Plat to accompany Petition for Special Exception". The property is currently zoned BL and the special exception is requested pursuant to Section 230.13.

The Secretary-Treasurer of the Petitioner, namely Gary Loraditch, appeared and was represented by counsel Ronald Decker, Esq. Also appearing on behalf of the Petitioner were Frederick Tomarchio, President of Mr. Tire, Inc., the tenant on the property, Joseph Tomarchio, Jr., Vice President of Mr. Tire, Inc.; Tom Church, Registered Engineer, Development Engineering Consultants, Inc. There were no protestants. The tenant was represented by Jeffrey F. Higdon.

At the hearing the Petitioner offered into evidence an amended plat to accompany the Petition for Special Exception. The amended plat provided for fencing to block off one of the entrances on Belair Road and one of the entrances on Joppa Road.

The fencing is more particularly described and outlined on said plat which is identified herein as Petitioner's Exhibit B.

Mr. Church testified that the amended plat and the proposed construction of the fencing fully complied with the recommendations submitted in the comments by the State Highway Commission, the Baltimore County Fire Department, and the Bureau of Traffic Engineering. The Petitioner also advised that it would fill the unused fuel tanks located in the ground of the premises with appropriate inert material or remove said tanks as required by Baltimore County Fire Department Regulations and related environmental regulations.

Testimony given and proffered established the fact that the premises has been used as a tire store by the current tenant, Mr. Tire, Inc., since a lease agreement was executed between said tenant and the Petitioner on January 27, 1978 and has been continuously operated as such through the date of the hearing. Additionally, it was established that prior to the occupation of the property by Mr. Tire, Inc. the property was utilized as a tire store and service garage by the preceding tenant for the period April, 1974 through November, 1977. It was also established that the property was occupied by CITGO, a gasoline service station during the period 1956 through 1972 which service station business included the sale and installation of tires. Judicial notice was taken as to the fact that a special exception was granted for the property on September 25, 1956 for a gasoline service station (Case No. 3892-X) which special exception has now expired.

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Testimony was given and proffered to the fact that the current use as a tire store/garage represented a safer use of the property from the point of view of traffic engineering and egress and ingress to the property than a gasoline station would be.

Mr. Church testified that the State of Maryland Highway Administration Department had advised that the entire premises known as 9101 Belair Road is to be taken by the State of Maryland for the purpose of the widening of Belair Road, which taking is scheduled to be completed within five years from the date of the hearing.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 230.13 of the Baltimore County Zoning Regulations (B.C.Z.R.) and therefore should be granted. There is no evidence in the record that the requested special exception would adversely effect the health, safety and/or general welfare of the public. Furthermore, failure to grant the special exception would result in the tenant, Mr. Tire, having to abandon its business at the property and considering the proposed taking of the property by the State of Maryland would result in practical difficulty and/or unreasonable hardship on the Petitioner in its attempt to locate a new tenant on the property for a lease period of less than five years.

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Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above the requested Special Exception should be granted.

THEREFORE, it is ordered by the Zoning Commissioner for Baltimore County this ____ day of August, 1988 that the Petition for Special Exception pursuant to Section 230.13, B.C.Z.R. to allow the property to be utilized as a service garage be and is hereby GRANTED subject however to the following conditions:

1) Petitioner shall proceed with modification to the premises in accordance with the plans as set forth in Petitioner's Exhibits A and B, namely the plat and amended plat, including but not limited to the construction of the fencing as provided in Petitioner's Exhibit B;

2) Petitioner shall proceed with making such repairs and renovations as are necessary in connection with unused fuel tanks located underground on the premises, which tanks shall be filled or removed in accordance with the recommendations of the Baltimore County Fire Department and applicable environmental agencies and regulations.

J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

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Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

December 7, 1988

Thomas A. Church
Development Engineering Consultants, Inc.
6603 York Road
Baltimore, MD 21212

Dennis F. Rasmussen
County Executive

RE: Case #89-9-X
Petition for Special Exception
NE Corner of Belair and Joppa Roads
11th Election District

Dear Mr. Church:

This letter references your correspondence received by this office on 12/1/88, which was accompanied by revised plats showing improvements to the site subject to the amended order dated 9/29/88 in Special Exception Case #88-113-X.

Please note that a copy of the comments of 5/3/88 from Traffic Engineering (enclosed) states that "A single access is adequate on Joppa Road. The westernmost access, therefore, should be closed and the 15 foot island be removed. The easternmost curb should be extended approximately 15 feet to the west to provide a 35 foot entrance."

This comment must be complied with as per Restriction #3 of the Zoning Commissioner's Amended Order or must be revised by Traffic Engineering to allow for the site as shown on your revised plans.

Should you need further assistance, please do not hesitate to contact me at 887-3391.

Very truly yours,

W. CARL RICHARDS, JR.
Zoning Coordinator

By: John L. Lewis
Planning & Zoning Associate III

JLL:scj

KEEP WITH SUBMITTED REVISED PLAT & LTR.
THIS RESUBMIT.
OK BY J.L.D.

Development Engineering Consultants, Inc.
Site Engineers & Surveyors

November 30, 1988

Baltimore County Zoning
Commissioner
Office of Planning and Zoning
Baltimore, MD 21204

Attention: Mr. J. Robert Haines
Zoning Commissioner

Gentlemen:

Subject: Petition for Special Exception
Northeast Corner of Belair and Joppa Roads
(9101 Belair Road), 11th Election District
5th Councilmanic District, Case 89-9-X
Our Contract No.: 88-113

We are submitting herewith a revised plat showing the improvements to the subject site relative to your amended order dated September 29, 1988 for the above referenced case.

Please note that the following improvements have been installed and verified by this office:

1. A chain link barrier fence has been installed to eliminate the north entrance off Belair Road. This installation will eliminate the possibility of any access to Belair Road through this curb opening.
2. The unused fuel tanks (four in number) have been filled with inert material and capped off with concrete as directed by the State Health Department's recommendations. This, therefore, will eliminate any hazardous condition with respect to unused fuel tanks on the property.

6603 York Road Baltimore, Maryland 21212 (301) 377-2600

RECEIVED ZONING OFFICE
DATE: 12/1/88

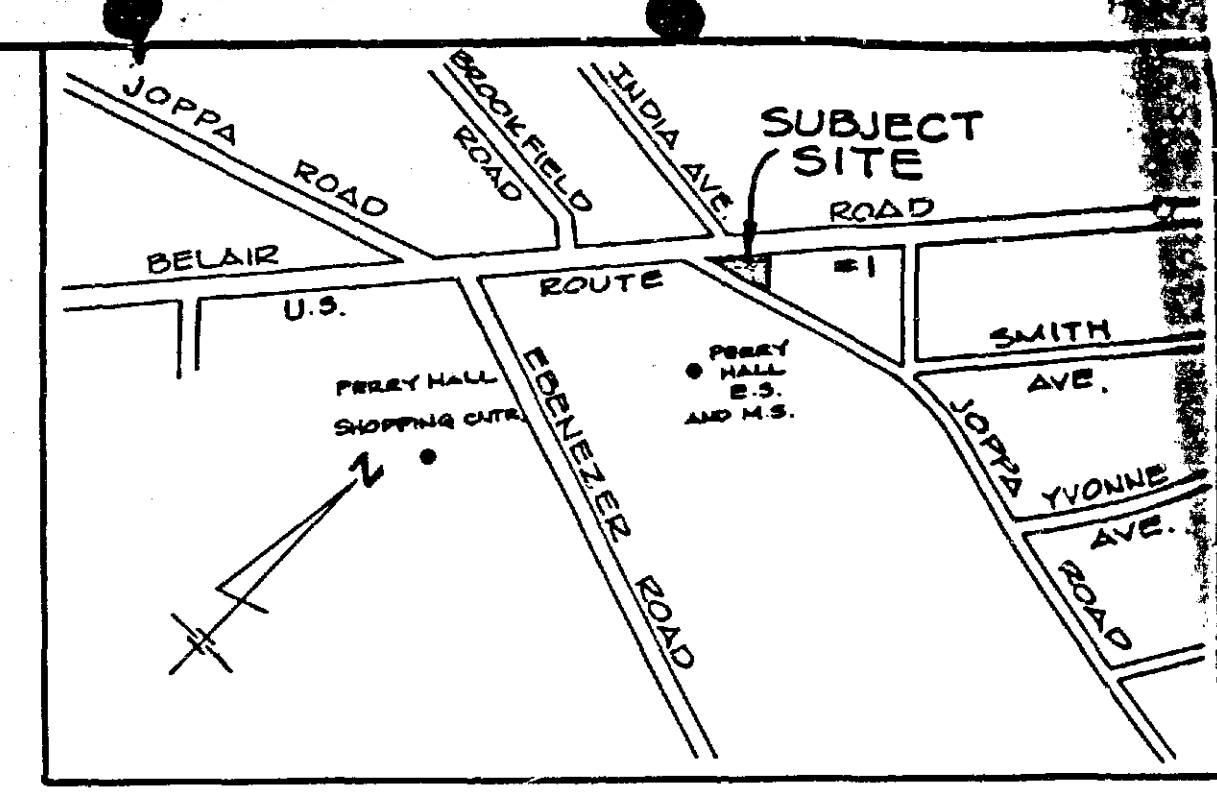
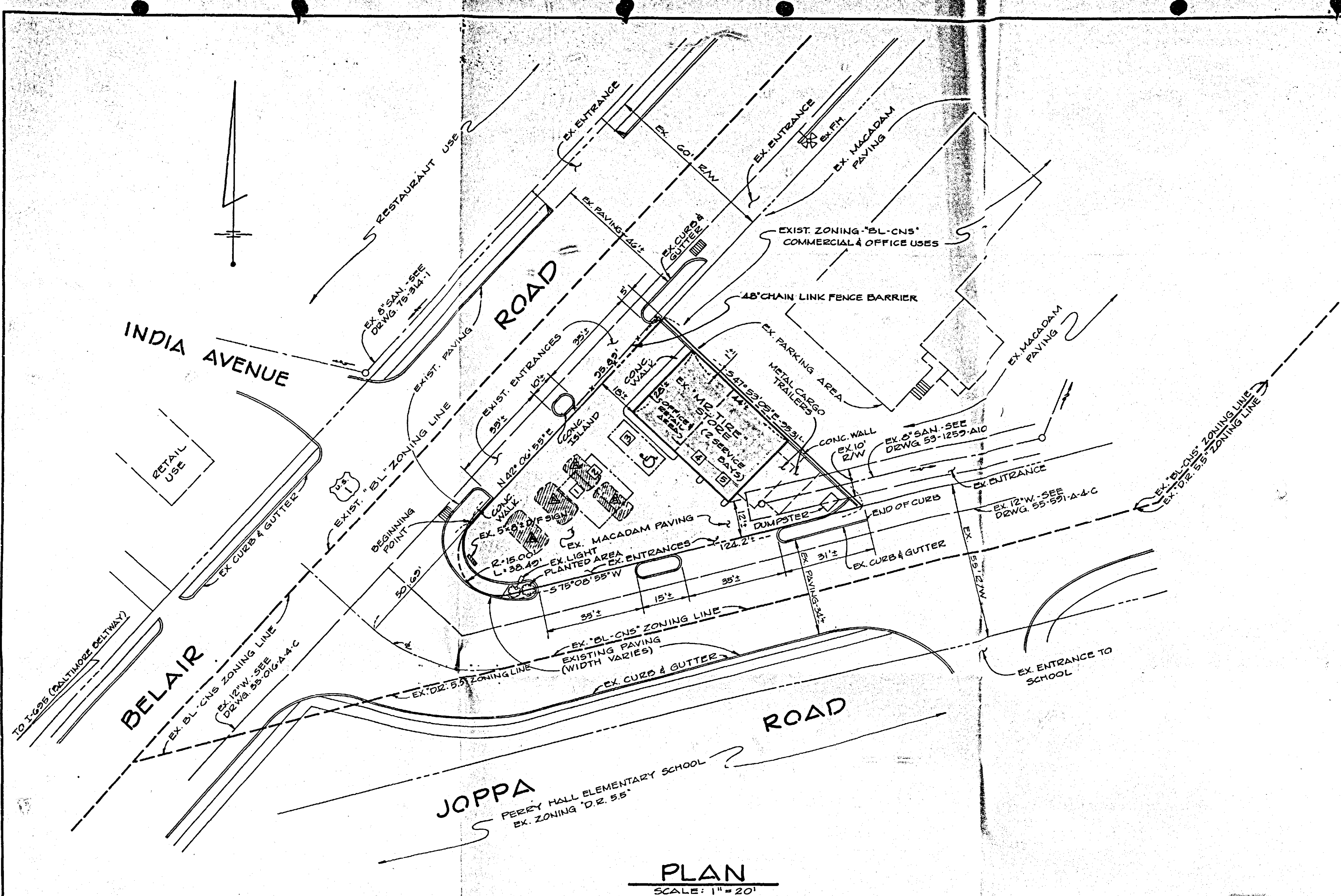
Baltimore County
Contract No.: 88-113
Page No. 2

The completion of the above outlined work should fulfill your requirements for granting the special exception ordered August 30, 1988.

Very truly yours,

Thomas A. Church
President

cc: Jeffrey Higdon, Esq.
Frederick Tomarchio
Joseph Tomarchio



LOCATION MAP
SCALE: 1" = 500'

GENERAL NOTES

1. AREA OF PROPERTY = 6,515 S.F. OR 0.15 AC. ± (NET AREA)
18,445 S.F. OR 0.42 AC. ± (GROSS AREA)
2. EXISTING ZONING = BL-CNS (SPECIAL EXCEPTION GRANTED SEPT. 25, 1956 FOR GASOLINE SERVICE STATION; SEE PETITION NO. 3892-X). PREVIOUS SERVICE STATION APPROVED APRIL 4, 1971.
3. EXISTING USE OF SITE: TIRE SALES AND SERVICE.
4. PARKING DATA:
A. RETAIL AREA = 560 SQ. FT. REQUIRING 2.8 SPACES (1/2000)
B. SERVICE AREA = 672 SQ. FT. REQUIRING 2.2 SPACES (1/3000)
C. TOTAL SPACES REQUIRED = 5
D. TOTAL SPACES PROVIDED = 5 (INCLUDES 2 SPACES IN SERVICE AREA & 1 HANDICAP SPACE)
5. PUBLIC UTILITIES EXIST AT THE SITE.
6. SITE IS LOCATED IN THE WHITE MARSH DRAINAGE AREA.
7. FLOOR AREA RATIO:
ALLOWED: 36,890 S.F. (2X 18,445)
EXISTING: 1,232 S.F. OR F.A.R. 0.67 (1232 ÷ 18,445)
8. NO STORAGE OF DAMAGED OR DISABLED VEHICLES IS PERMITTED.
9. PARKING SPACES DENOTED BY: □

PLAN
SCALE: 1" = 20'

△ APPROXIMATE LOCATION OF 4 UNDERGROUND FUEL TANKS FILLED WITH INERT MATERIALS IN ACCORDANCE WITH STATE HEALTH DEPARTMENT RECOMMENDATIONS.

REASON FOR SPECIAL EXCEPTION:
TO ALLOW A "MR. TIRE" STORE TO SELL & CHANGE TIRES ON THE SITE ALONG WITH OTHER AUTOMOTIVE ACCESSORIES.

REVISED PLAT SUBMITTED WITH LTR. OF NOV. 30, 1988. ASKING FOR A DETERMINATION OF Z.C. ORDER.
SEE RESPONSE LTR. OF DEC. 7, 1988 BY WCR+JLL.

NOT ACCEPTABLE DUE TO LACK OF TRAFFIC ENG. COMMENT REQUESTING ALTERATION ON JOPPA RD.



CASE No. 89-9-1